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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Seferinus Jelle Asma

2007-1017

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466

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YOUNG & THOMPSON

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EXAMINER

HESS, DOUGLAS A

ART UNIT

PAPER NUMBER

3651

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/563,966	Applicant(s) ASMA, SEFERINUS JELLE	
	Examiner Douglas A. Hess	Art Unit 3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/10/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 27-54 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 27 (lines 7-8), claim 46 (line 2) and claim 54, (line 7), the phrase "such as" renders the claims indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claim 38 (line 2), claim 41 (line 2), claim 47 (line 2), and claim 49 (line 2), the phrase "preferably" renders the claims indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim 32 recites the limitation "their heads" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 40 recites the limitation "its corner" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

Claim 40 recites the limitation "the first leg" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 40 recites the limitation "the second leg" in 6. There is insufficient antecedent basis for this limitation in the claim.

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Claim 44 recites the limitation "the chords" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 46 recites the limitation "its corner" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 46 recites the limitation "the first leg" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 46 recites the limitation "the second leg" in line 8. There is insufficient antecedent basis for this limitation in the claim.

In Claim 46, lines 9-10, the phrase "engagement of a with respect to" is confusing, it appears a term is missing from the phrase. Please clarify.

Claim 48 recites the limitation "the second leg" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 48 recites the limitation "the ultimate open position" in lines 3-4. There is insufficient antecedent basis for this limitation in the claim.

Claim 50 recites the limitation "the chords of the arcs" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 27-32, 35, 39, and 54 are rejected under 35 U.S.C. 102(e) as being anticipated by Dombek USP 7,165,668.

Dombek teaches a conveyor transfer device utilizing a first conveyor (not shown, but inherently at the bottom portion of figure 3), a transferrer (13) and a second conveyor (14). All the conveyors are capable of operating at different speeds. The transferrer (13) includes a gripper (21) which is rotatable thereby configuring the articles in a first and a second orientation which are at angles to each other.

5. Claims 46, 47, and 51-53 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Fox et al. USP 2,705,857. (appears as Armond Onesto et al. on IDS submitted by applicant)

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dombek USP 7,165,668.

Dombek teaches the claimed features as outlined above, but fails to teach the particulars of the varying of speeds of each conveyor as outlined in claims 33 and 34. Dombek teaches that his conveyors can operate at different speeds but does not explicitly teach a third speed being higher than a first speed or a second speed being higher than a third speed. It would have been an obvious matter of design choice as to the way in which the device of Dombek is operated based on design applications specific to the invention at hand and the mere claiming of how each conveyor interacts in a speed basis with the other conveyors does not provide a patentable departure over the device of Dombek. Furthermore, Dombek's device is capable of operating in the manner set out by the applicant.

Allowable Subject Matter

8. Claims 36-38, 40-44, and 48-50 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas A. Hess whose telephone number is 571-272-6915. The examiner can normally be reached on M-Thurs 5:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Douglas A Hess/
Primary Examiner, Art Unit 3651

Douglas A Hess
Primary Examiner
Art Unit 3651

DAH
December 4, 2008